



CRP.No.594 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2024

CORAM:

THE HONOURABLE Mr.JUSTICE V.LAKSHMINARAYANAN

CRP.No.594 of 2022
and CMP.No.3093 of 2022

A.C.Vadivel Mudaliyar (Died)
A.C.Sahadeva Mudaliyar (Died)

1.S.Kalyana Sundaram
2.S.Senguttuvan
3.S.Singarasamy
4.S.Kaveri
5.S.Niraimathi

... Petitioners

Vs

S.Chandrasekar (Died)

1.C.Punniyakotti
2.C.Loganathan
3.Gomathi

... Respondents

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the docket order dated 18.11.2021, passed in I.A.No.108 of 2020 in O.S.No.188 of 2008 on the file of Subordinate Judge at Kancheepuram, and allow this civil revision petition.



CRP.No.594 of 2022

For Petitioners : Mr.P.Dinesh Kumar

For Respondents : Ms.M.Pravalika
for Mr.S.Prabu

ORDER

This civil revision petition arises to set aside the order passed by the learned Subordinate Judge, Kanchipuram in I.A.No.108 of 2020 in O.S.No.188 of 2008 dated 18.11.2021. This revision is at the instance of the defendants.

2. The suit in O.S.No.188 of 2008 is laid for partition. In the said suit, the second plaintiff has entered the witness box and has marked Exts.A1 to A8. During the course of examination, he wanted to file an agreement for partition dated 09.03.1996, which is stamped, but unregistered. According to him, in the said document, his 1/3rd share has been conceded by one Sundaramoorthy and Soundararajan. In order to prove his right in the property and for collateral purposes, he had introduced this document. This was not received by the concerned authority, as it was unregistered and did not have sufficient stamps. Hence, in 2020, the second plaintiff filed an



application in I.A.No.108 of 2020 in O.S.No.188 of 2008 before the learned Subordinate Judge, Kanchipuram to impound the said document, and send the same to the Collector for Stamps and Registration for the purpose of levying stamp duty. It is pertinent to point out that this document is not filed along with the plaint in 2008.

3. The defendants opposed the same stating that the said document must not be received in evidence. On account of the fact that the world was in struck with COVID wave at that time, the matter was adjourned for several months, and finally the arguments on either side were heard on 18.11.2021. On 18.11.2021, the learned Judge passed the following order :

"On perusal of records and considering the reasons stated by the petitioner and also considering the endorsement as no counter made by the respondent, the petition is allowed. No costs."

This order is now under challenge.

4. Heard Mr.P.Dinesh Kumar, learned counsel for the revision petitioners and Ms.M.Pravalika, learned counsel for the respondents.



WEB COPY 5. The learned counsel for the petitioners/defendants would submit that the defendants, who are the respondents before the Trial Court have opposed this application. Despite the same, the learned Trial Judge had allowed the application, as if the defendants/respondents therein had no objection.

6. A careful perusal of the impugned order shows that the learned Judge had not only taken into consideration the fact that no counter was filed by the defendants, in addition, it had also perused the records and had considered the reasons given by the second plaintiff/petitioner therein, prior to allowing the application.

7. When a plaint document is sought to be impounded, I do not know how the defendants will be affected. After impounding the document, there is enough time for the defendants to oppose and plead about the irrelevancy of the said document. Impounding the plaint document and sending it to the Collector of Stamps for levying the stamp duty is only a procedural aspect, which has been dealt with by the Trial Court. Therefore, I do not find any reasons to interfere with the order impugned herewith.



CRP.No.594 of 2022

WEB COPY

8. In the result, the civil revision petition stands dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

29.04.2024

Index:Yes/No

Internet:Yes/No

Speaking order/Non-speaking orders

To

1.The Subordinate Judge
Kanchipuram.

2.The Section Officer
VR Section, High Court, Madras.



WEB COPY



CRP.No.594 of 2022

V.LAKSHMINARAYANAN,J.

ds

CRP.No.594 of 2022

29.04.2024